IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4487 OF 2005

1. Jaimala Vikramsinh Deshmukh
2. Rajni Vishwas Deshmukh ...Applicants
Vs.
The State of Maharashtra ...Respondent

Shri. Shriniwas S. Patwardhan for the Applicants.
Shri. A.S. Gadkari, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 05, 2005.

P.C.:

1. Heard Advocate appearing for the Applicants and the learned A.P.P. for the State. The offences alleged against the Applicants are punishable under section 302 and 498-A read with section 34 of the Indian Penal Code. The Application for bail made by the Applicants on two ocassions has been rejected by the learned Sessions Judge. The learned Sessions Judge has relied upon two dying declarations of the deceased and has held that though the Applicants are women notwithstanding the provisions of Section 437 of the Code of Criminal Procedure, 1973, they are not entitled to be enlarged on bail.

2. The learned Advocate for the Applicants submitted that apart from two dying declarations which are referred to by the learned Trial Judge, there is one more dying declaration in which the deceased has stated that death was accidental. He submitted that the said dying declaration cannot be said to be

recorded under the influence of the husband of the deceased as he did not admit the deceased to Civil Hospital and it is the mother of the Applicant who in fact admitted the deceased in hospital. He submitted that after investigation is complete, the Applicants who are married ladies should not be detained in custody.

3. The learned A.P.P. submitted that clear role has been ascribed to the Applicants in atleast two dying declarations. It is alleged in the dying declarations that the Applicant No.1 who is the mother-in-law of the deceased poured the kerosene on the person of the deceased and the Applicant No.2 who is the sister-in-law of the deceased lighted the match. He submitted that considering the nature of material on record, the Applicants cannot be enlarged on bail.

4. I have considered the rival submissions. It is true that there are two dying declarations of the deceased in which the Applicants have been clearly implicated. However, there is a one more dying declaration in which the deceased has allegedly stated that the fire was accidental. While rejecting the first Application filed by the Applicants, the learned Additional Sessions Judge has observed that the husband of the deceased admitted her in civil hospital

and because of his influence such dying declaration must have been recorded by the Police Officer. There is nothing on record to show that husband of the deceased admitted the deceased to the civil hospital.

5. Admittedly, investigation has been completed. The Applicant No.1 is fifty five years old married woman and the Applicant No.2's age is twenty five years. She is a married woman. The Applicants have been in custody for last more than three months. Considering the fact that the Applicants are married women, they are entitled to be enlarged on bail, subject to stingent conditions.

6. Hence, I pass the following order:

: O R D E R :

i) The Applicants shall be enlarged on bail in connection with **C.R.No.56 of 2005 of Pandharpur Taluka Police Station,** subject to furnishing a personal bond of **Rs.15,000/- each** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicants will report to Pandharpur Taluka Police Station on every Sunday between 11.00 a.m. to 01.00 p.m. till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) The Applicants shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE